

SECOND REGULAR SESSION

SENATE BILL NO. 1254

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GREEN.

Read 1st time February 28, 2008, and ordered printed.

TERRY L. SPIELER, Secretary.

4875S.011

AN ACT

To amend chapter 67, RSMo, by adding thereto one new section relating to political subdivision services bidding standards.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto one new section, to be known as section 67.319, to read as follows:

67.319. 1. The provisions of this section shall apply to contracts for services awarded by political subdivisions of the state of Missouri and shall be known as the "Political Subdivision Services Bidding Standards Act".

2. Contracts for services by any political subdivision shall be advertised and bids solicited and awarded in compliance with other Missouri statutes, state rules, and federal and state funding requirements applicable to the specific political subdivision which are in effect on August 28, 2008, or as such requirements may be enacted or amended, and any provision of a local charter, ordinance, order, resolution, or policy applicable to the specific political subdivision which are in effect or which are subsequently adopted by the political subdivision after August 28, 2008.

3. If a political subdivision is not subject to a specific requirement for advertising for bids or soliciting, awarding, or rejecting bids under requirements specified in subsection 2 of this section regarding contracts for services, the political subdivision shall comply with the following provisions when soliciting bids and awarding service contracts:

(1) Contracts for services shall be advertised in advance of the acceptance of bids. If no provision of state law, state rule, federal or

22 state funding requirement, or local charter, ordinance, order,
23 resolution, or policy requiring advertising otherwise applies, bids shall
24 be solicited by advertisement for a minimum of five days in one
25 newspaper of general circulation in a county or city not within a
26 county where the political subdivision is located, with the first
27 advertisement for bids appearing in the newspaper at least thirty days
28 in advance of the date stated in the advertisement for acceptance of
29 bids. For contracts over fifty thousand dollars, bids shall also be
30 advertised by providing service and bid solicitation information at
31 least thirty days in advance of bid opening to one or more commercial
32 or not-for-profit organizations, which regularly provides information
33 on contracts to be awarded to contractors providing the type of service
34 needed. Advertisements and bid solicitations shall state the deadline
35 for submission of bids and the time and place where bids shall be
36 received and opened;

37 (2) In absence of a bid award or rejection standard specified
38 under subsection 2 of this section, contracts for services shall be
39 awarded in compliance with this subdivision. If no provision of state
40 law, state rule, federal or state funding requirement, or local charter,
41 ordinance, order, resolution, or policy otherwise applies, the contract
42 shall be awarded to the lowest responsible bidder that submits a bid
43 which is responsive to the contract as advertised by the political
44 subdivision. The determination of the bidder's qualification shall be
45 made based on his or her education and training. The political
46 subdivision may reject the low bidder by declaring the bidder ineligible
47 for the contract award based on the bidder's failure to provide a
48 performance or payment bond as required by section 107.170, RSMo, if
49 applicable, the bidder's nonperformance on previous contracts with the
50 political subdivision, or other reasons specified as to the bidder's
51 inability to adequately perform the contract. The reasons for bid
52 rejection or award of the contract to another bidder shall be stated in
53 writing to the low bidder within five business days of the rejection of
54 the bid.

55 4. Notwithstanding any other provision of state law, state rule,
56 or federal or state funding requirement to the contrary, or any
57 provision of a charter, ordinance, order, resolution, or policy to the
58 contrary, adopted by a political subdivision, no contract for services

59 shall be awarded in violation of the following requirements:

60 (1) No bid shall be opened in advance of the advertised deadline
61 for submission of bids or in a place other than that specified in the
62 original solicitation of bids or in an amendment to the solicitation
63 communicated in advance to all known bidders;

64 (2) No bid shall be accepted unless it is sealed and is in writing.
65 If the letting of the services for which bids were solicited is cancelled,
66 bids shall be returned to the bidder unopened;

67 (3) No bid shall be accepted after the advertised deadline for
68 acceptance of bids;

69 (4) All bids received shall be held secure and confidential from
70 all persons until the bids are opened at the time and place announced
71 by the political subdivision. Bids shall be opened in a public meeting,
72 as defined in chapter 610, RSMo.

73 Nothing in this section shall be construed to prohibit acceptance and
74 processing of bids through an established program of electronic
75 bidding by computer, provided bids accepted and processed
76 electronically shall meet standards of confidentiality established by the
77 requirements of the electronic bidding program which are comparable
78 to requirements for written bids established by this section.

79 5. Any person submitting a bid, or who would have submitted a
80 bid except for violations of subsection 4 of this section, shall have
81 standing to seek equitable relief and monetary damages in a court of
82 competent jurisdiction for monetary losses resulting from violations of
83 subsection 4 of this section, including but not limited to, setting aside
84 award of a contract, ordering a contract to be re-bid, requiring award
85 of a contract to a different bidder than originally awarded, awarding
86 monetary damages deemed appropriate by the court, including award
87 of reasonable attorney's fees, or awarding a combination of such forms
88 of relief.

89 6. Nothing in this section shall be construed to require
90 acceptance of a bid which exceeds the amount estimated by the
91 political subdivision for the contract. Neither shall anything in this
92 section prohibit a political subdivision from awarding contracts
93 without competitive bidding when the political subdivision deems it
94 necessary to remove an immediate danger to the public health or
95 safety, to prevent loss to public or private property which requires

96 **government action, or to prevent an interruption of or to restore an**
97 **essential public service.**

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